

Remarks

Reconsideration of the instant application is respectfully requested in light of the above-amendments and following remarks.

I. STATUS OF THE CLAIMS

Claims 1-6, 9-14, and 16-17 are now pending. Claims 1 and 14 have been amended to facilitate prosecution and to indicate that the non-ionic surfactant is present in an amount of from about 3 to about 25 weight percent. Claim 1 has also been amended to incorporate the limitations of claim 7. Support for such amendments can be found, for example, in the specification and in the Examples (see Examples 2, and 6-10). Claims 7, 8 and 15 have been canceled without prejudice. No new matter has been added.

II. THE EXAMINER'S REJECTIONS UNDER 35 U.S.C. 112 HAVE BEEN RENDERED MOOT OR OVERCOME

The Examiner rejected claims 8 and 15 under 35 U.S.C. 112, second paragraph, as being indefinite. More specifically, the Examiner asserted that such claims improperly contained the trademarks/trade names "CARBOPOL AQUA SF-1."

In reply, applicants respectfully submit that in light of the amendments to the claims, such rejections have been rendered moot.

III. THE CLAIMED INVENTION IS PATENTABLE OVER SHANA'A

The Examiner rejected claims 1-17 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,737,394¹ issued to Shana'a (hereinafter "Shana'a"). More specifically, the Examiner asserted that Shana'a discloses isotropic cleansing compositions comprising surfactants and a thickening agent, including hydrophobically modified, crosslinked, polyacrylates. In particular, the Examiner noted that Table 2, Example IV of Shana'a listed a "composition comprising 9% by weight of a blend of ammonium laureth sulfate/ammonium

¹ Applicants respectfully do not necessarily agree that this document is properly cited as prior art and hereby reserve the right to swear behind such reference.

lauryl sulfate/cocamide MEA/PEG-5 cocamide, 0.8% by weight of cocamidopropyl betaine, 0.5% weight of glycerin, 1.5% by weight of CARBOPOL AQUA SF-1 . . . per the requirements of the instant claims."

In reply, applicants respectfully submit that Shana'a fails to teach or suggest the claimed invention as amended. In particular, as discussed in more detail below, Shana'a fails to teach or suggest any composition comprising the required amounts of anionic surfactant, hydrophobically modified acrylic copolymer, and non-ionic surfactant. In addition, Shana'a further fails to teach or suggest a composition comprising such components that is "mild to the skin and/or eyes" as required by the claims. Therefore the Examiner's rejection should be withdrawn and the claims allowed.

Shana'a is directed to liquid cleansing compositions comprising one or more surfactants and a thickener, which may include a polyacrylic including CARBOPOL AQUA SF-1. However, Shana'a fails to teach any composition that comprises the specific combination of: from about 3.5 percent to about 8.5 percent of an anionic surfactant; from about 0.1 percent to about 3 percent of a hydrophobically modified, crosslinked, anionic acrylic copolymer; and from about 3 percent to about 25 percent of a nonionic surfactant, as now required in the claimed invention. In particular, applicants note the Example IV in Table 2 of Shana'a comprises about 1.1% of nonionic surfactants (cocamide MEA and PEG-5 cocamide) - well below the "about 3 percent to about 25 percent" as now required. Shana'a thus fails to teach each and every limitation of the instant claims and does not anticipate such claims. Therefore, the Examiner's rejection should be withdrawn.

Moreover, Shana'a further fails to teach or suggest any composition of the claimed combination that exhibits the *unexpected properties* of being mild to the skin as required by the instant claims, and therefore does not otherwise render the claimed invention unpatentable. Only applicants have recognized the surprisingly low irritation properties (to skin and/or eyes) associated with the claimed compositions as compared to other comparable anionic surfactant-containing compositions (and as shown in the Examples (see TEP results of compound 2 vs. compounds 1, 3, and 4 in Table 2 and Examples 6-10 vs. Example 5 in Table 4)). Those of skill in the art would thus not have recognized the possibility of achieving nor been motivated to

achieve the claimed compositions with the claimed mildness in light of Shana'a by selecting the specific ranges of materials as now claimed. Accordingly, the claimed invention defines subject matter that is patentable over Shana'a. Therefore, the pending claims should be allowed.

IV. THE PROVISIONAL DOUBLE PATENTING REJECTIONS ARE RENDERED MOOT

The Examiner provisionally rejected claims 1-17 under the doctrine of obviousness-type double patenting in view of: claims 1-18 of copending Application No. 10/650,226; and claims 1-20 of copending Application No. 10/650,573.

While applicants do not necessarily agree with the Examiner's rejections in any regard, nevertheless, because such provisional rejections are the only rejections remaining in view of the amendments and remarks herein, applicants submit such rejections should be withdrawn pursuant to MPEP 804(I)(B), and the instant case allowed. Should any of the above applications issue into a patent prior to allowance of the instant application, the Examiner is requested to contact the undersigned to allow applicants to consider filing a Terminal Disclaimer, or otherwise overcome any resulting non-provisional double patenting rejection.

V. CONCLUSION

In light of the above amendments and remarks, applicants respectfully submit the application is in condition for allowance and requests an early notice of allowance for this application. Should the Examiner have any questions regarding this submission, please contact the undersigned.

Respectfully submitted,

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